

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

MICHAEL BRADFORD, and RAMONA
BRADFORD, as Parent and Next Friend
of ROBIN BRADFORD, a minor,

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Plaintiffs,

v.

CIV. NO. 02-1581 MV/ACT

COUNTY OF BERNALILLO, et al.,

Defendants.

**MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court upon the Petition for Approval of the Settlement of a Minor's Claim filed September 19, 2003 (Docket No. 25) and the Petition for Approval of the Settlement of all Plaintiffs' Claims, including a Minor's Claim, and Dismissing all Claims of Michael Bradford and Ramona Bradford, as Parent and Next Friend of Robin Bradford, a Minor, Against the Beach Water Park, Inc., filed October 2, 2003 (Docket No. 27).

1. This is a civil rights complaint alleging excessive and unnecessary use of force, false arrest and false imprisonment and malicious prosecution. First Amended Complaint, filed February 26, 2003. The complaint also alleges state law claims of assault and battery/false arrest and false imprisonment, malicious abuse of process, negligence and reckless endangerment.

2. Plaintiff Ramona Bradford is the parent and next friend of Robin Bradford, a minor child. At the time of the incident giving rise to this action, Robin was 15 years old.

3. Although the First Amended Complaint refers to June 6, 2001, the incident in question occurred on or about June 23, 2001, when Robin was attending a concert at The Beach. Plaintiffs'

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allege that during and at the conclusion of the concert there are numerous fights in the parking lot. Plaintiffs' allege that in spite of the fights they along with a crowd were ushered into the parking lot after the concert. In attempting to leave the parking lot, Robin alleges that an officer grabbed her and lifted her off the ground. As she came back down to the ground, Robin alleges her shirt was pulled by the officer down to her waist, exposing her bra-covered breasts. Robin further alleges that officers called Robin and her friend "whore" and told them to "get the f*** off [his] property." First Amended Complaint, ¶35.

4. Ramona Bradford, as parent and next friend of Robin Bradford, and the County of Bernalillo entered into a Release and Indemnification Agreement for Settlement of a Minor's Claim. The Release provides that the County will pay Eight Thousand Five Hundred and 00/100 Dollars (\$8,500.00), consisting of a check in the amount of \$1,500 payable to Ramona Bradford, individually and as parent and next friend of Robin Bradford, a minor, and a check in the amount of \$7,000 for costs and attorney fees payable to their attorney Parrish Collins. At the hearing, Alysian Collins appeared for the Plaintiffs and represented that Ramona Bradford would receive \$2,000, the additional \$500 coming out of the attorneys' fees portion of the settlement.

5. Ramona Bradford, as parent and next friend of Robin Bradford, and The Beach Waterpark, Inc. entered into a Joint Release in Full and Indemnifying Agreement. Ms. Collins represented in Court that Ramona Bradford would receive \$2,000 from the Beach Water Park, Inc.

6. The parties agree that due to the limited nature of the injuries and amount of settlement a guardian ad litem did not need to be appointed. At the hearing on October 20, 2003, both Ramona Bradford and Robin Bradford testified.

7. Based on a review of the record, counsel's presentations and testimony in court, the

Court finds that Ramona Bradford and Robin Bradford received the advice and counsel of competent attorney and were satisfied with the legal services provided to them. The Court further finds that Ramona Bradford and Robin Bradford understand that they are under no obligation to settle the case and could elect to proceed to trial. Ramona Bradford and Robin Bradford were also advised and understand that a trial might result in an award greater than the amount of the settlement, less than the amount of the settlement or no award at all. Ramona Bradford also understands that the proceeds of the settlement are to be used solely for the benefit of Robin Bradford and any remaining funds will be turned over to Robin Bradford when she reaches her 18th birthday on November 1, 2003.

8. Ramona Bradford and Robin Bradford had ample opportunity to confer with counsel concerning this settlement. Ramona Bradford stated that the settlement was voluntary and no one was forcing her to settle.

9. After consideration of the evidence and presentations of counsel, the Court concludes that it has jurisdiction over the parties and subject matter and that the settlement is fair and reasonable and is in the best interest of the minor child, Robin Bradford.

RECOMMENDED DISPOSITION

I recommend that the Court enter an order approving the Defendants' settlements with Ramona Bradford, as parent and next friend of Robin Bradford.

Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendations with the Clerk of the United States District Court, 333 Lomas N.W., Albuquerque, NM 87102. A party must file any objections within the ten day period allowed if that party wants to

have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.


ALAN C. TORGERSON
UNITED STATES MAGISTRATE JUDGE